

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Olga Bentin	Team: Squad #9	CCRB Case #: 201509503	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 10/31/2015 11:55 PM	Location of Incident: West 3rd Street and Macdougall Street	Precinct: 06	18 Mo. SOL 4/30/2017	EO SOL 4/30/2017	
Date/Time CV Reported Sun, 11/01/2015 12:01 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 11/09/2015 11:04 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM William Morris	16924	952037	006 PCT
2. LT Robert Gibson	00000	915788	006 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Annalee Simon	24898	953407	006 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM William Morris	Force: PO William Morris used physical force against § 87(2)(b)	
B.POM William Morris	Abuse: PO William Morris threatened to arrest § 87(2)(b)	
C.POM William Morris	Abuse: PO William Morris issued a summons to § 87(2)(b)	
D.LT Robert Gibson	Abuse: Lt. Robert Gibson issued a summons to § 87(2)(b)	

Case Summary

On the evening of October 31, 2015, at approximately 11:55 p.m., § 87(2)(b) along with her husband, § 87(2)(b) her sister, § 87(2)(b) her unidentified § 87(2)(b)-old daughter, her cousin, § 87(2)(b) and two other unidentified cousins, went to the Halloween Day Parade in Manhattan. § 87(2)(b) and her family were walking down Macdougall Street from West 4th Street towards West 3rd Street when § 87(2)(b) observed an ongoing dispute involving an unidentified young female and an unidentified male. The female was yelling, screaming, and pushing the male. § 87(2)(b) and her family stopped for a few seconds and observed the dispute. A few minutes later, police officers arrived on scene, and surrounded the male.

§ 87(2)(b) continued walking on Macdougall Street towards West 3rd Street, when she approached the incident location, and said aloud, “It is a shame that [the female] assaulted [the male] but [the officers] ran on [the male].” The comment was not directed towards any officer in particular. § 87(2)(b) took a few more steps and repeated her comment again.

As § 87(2)(b) was passing by the scene, she walked past two police officers, identified via investigation as PO William Morris and PO Annalee Simon of the 6th Precinct. PO Simon overheard § 87(2)(b) and said, “Nothing is happening to [the male]. No one is holding him. He is free to go.” § 87(2)(b) alleged that when she took a few more steps past the officer, PO Morris pushed § 87(2)(b)’s right shoulder, and said, “Go!” (**Allegation A**). § 87(2)(b) then stopped and said to PO Morris, “Why did you push me? Why did you do that?” PO Morris then pushed § 87(2)(b) on her right shoulder again and said, “Just go! Keep moving!” (**Subsumed in Allegation A**).

§ 87(2)(b) and her family walked to the sidewalk at the corner of West 3rd Street and Macdougall Street where § 87(2)(b) called 911. § 87(2)(b) was on the phone with a 911 operator filing a complaint when PO Morris approached her and allegedly informed her that she was going to be arrested (**Allegation B**). PO Morris then asked § 87(2)(b) for her identification. § 87(2)(b) informed PO Morris that that her identification was inside of her car that was parked by the train station. PO Morris asked § 87(2)(b) to provide him with any other documentation with her name on it. § 87(2)(b) provided PO Morris with her credit card. PO Morris then issued § 87(2)(b) a summons for disorderly conduct (**Allegation C**).

In the course of the investigation, it was discovered that before issuing the summons to § 87(2)(b) PO Morris discussed the incident with Lt. Robert Gibson who affirmed, and consented to PO Morris’ decision to issue § 87(2)(b) a summons (**Allegation D**). § 87(2)(b) was not arrested during this incident.

There is no video footage for this incident.

Mediation, Civil and Criminal Histories

- Mediation was presented to § 87(2)(b) during her interview; however, § 87(2)(b) rejected mediation § 87(2)(b).
- This report has been submitted pending FOIL request on December 29, 2015, for any Notice of Claim filed in regard to this incident.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian and Officer CCRB Histories

- PO William Morris has been a Member of Service for three years and has 12 total allegations filed against him, none of which have been substantiated. § 87(2)(g)
- Lt. Robert Gibson has been a Member of Service for 20 years and has 14 total allegations filed against him, none of which were closed as substantiated. § 87(2)(g)
- This is § 87(2)(b)'s first CCRB complaint (Board Review 2).

Potential Issues

- § 87(2)(b)'s husband and a witness to this incident, was uncooperative with the investigation (Board Review 3).
- § 87(2)(b)'s sister and a witness to this incident, was uncooperative with the investigation (Board Review 3).
- § 87(2)(b)'s cousin and a witness to this incident, was uncooperative with the investigation (Board Review 3).

Findings and Recommendations

Explanation of Subject Officer Identification

- § 87(2)(b) described PO Morris as a tall white male, who was in his mid-30s, stood approximately 6'0" tall, weighed 200 pounds, and was dressed in uniform (Board Review 1). PO Morris is a § 87(2)(b)-old white male, who stands 6'2" tall, weighs 185 pounds, with brown hair and brown eyes (Board Review 4). PO Morris acknowledged physically touching and interacting with § 87(2)(b). PO Morris also acknowledged issuing § 87(2)(b) a summons for disorderly conduct. § 87(2)(g)
- PO Morris testified that he discussed the issuance of the summons to § 87(2)(b) with Lt. Gibson at the time of the incident (Board Review 5). Lt. Gibson acknowledged granting PO Morris permission to issue § 87(2)(b) the summons for disorderly conduct. § 87(2)(g).

Allegation A – Physical Force: PO William Morris used physical force against § 87(2)(b)

At approximately 11:55 p.m., on October 31, 2015, § 87(2)(b) her unidentified § 87(2)(b)-old daughter, § 87(2)(b) and two cousins, went to the Halloween Day Parade in Manhattan. § 87(2)(b) and her family were walking down Macdougall Street from West 4th Street towards West 3rd Street when she observed a dispute involving an unidentified young female and unidentified male arguing. The female was screaming, cursing, and pushing the male. § 87(2)(b) and her family stopped for a few seconds and observed what was going on. A few minutes later, the police arrived at the incident location, and surrounded the male (Board Review 1).

§ 87(2)(b) walked past the incident location, and stated to no one in particular, "It is a shame that [the female] assaulted [the male] but [the officers] ran on [the male]." § 87(2)(b)

said the comment in a normal tone. The comment was not directed towards any officer in particular. § 87(2)(b) took a few more steps and repeated the same comment again, "Look at this...It is a shame that [the female] assaulted [the male] but [the officers] ran on [the male]." § 87(2)(b) was approximately three steps away from a female police officer, identified via investigation as PO Annalee Simon, who was standing closer to the street. The Halloween Parade was over; however, the street was still very crowded, and it was difficult for § 87(2)(b) to make her way through the crowd. § 87(2)(b) observed a tall male officer, identified via investigation as PO William Morris, standing slightly behind PO Simon (Board Review 1).

PO Simon overheard § 87(2)(b) and responded, "Nothing is happening to [the male]. No one is holding him. He is free to go." Neither § 87(2)(b) nor anyone else in her group replied to PO Simon. § 87(2)(b) alleged that she took a few more steps past the officers when PO Morris then pushed her with his both hands on her right shoulder, and said, "Go." § 87(2)(b) stopped at that point and asked PO Morris, "Why did you push me? Why did you do that?" PO Morris then pushed § 87(2)(b) in her right shoulder again and said, "Just go! Keep moving!" PO Morris did not issue any commands before pushing § 87(2)(b). She and her family walked to the sidewalk at the corner of West 3rd Street and Macdougall Street where § 87(2)(b) called 911 in order to file a complaint against PO Morris (Board Review 1).

PO William Morris testified that on the night of October 31, 2015, he was assigned to a club detail of the 6th Precinct during the Halloween Day Parade in Manhattan. PO Morris responded to call for a dispute occurring at West 3rd Street and Macdougall Street in Manhattan. When PO Morris arrived at the location, he observed an unidentified male yelling and screaming at the scene. PO Morris recalled that there was another unidentified individual who was released immediately. A female individual, identified as § 87(2)(b) was passing by the scene of the dispute with a group of approximately five other individuals. § 87(2)(b) and her companions stopped when they reached the location where the male had been detained by the police for questioning. § 87(2)(b) then told the male individual that he should remove himself from police custody. § 87(2)(b) was standing approximately two feet away from PO Morris, and approximately six to eight feet away from the male. It did not appear to PO Morris that § 87(2)(b) knew the male, or that the male reacted to her comments in any way. § 87(2)(b) was loud and somewhat "tumultuous" which made PO Morris fear for his safety. PO Morris then told § 87(2)(b) approximately three times, "Police, do not interrupt... step away!" § 87(2)(b) remained on scene and did not leave. § 87(2)(b) then took, "some baby steps", but there was a large crowd of people, and it was not clear if she was obeying his command and walking away. Besides being loud and telling the male to leave police custody, § 87(2)(b) did not do anything else that made PO Morris fear for his safety. Due to § 87(2)(b)'s close proximity to PO Morris, and her not leaving the scene despite numerous requests to disperse, PO Morris then attempted to escort § 87(2)(b) in order to continue his investigation regarding the incident involving the male. PO Morris reached out to § 87(2)(b) and touched her arm; attempting to escort her away from the scene. PO Morris did not push § 87(2)(b) at any point during the incident. The individuals who accompanied § 87(2)(b) as well as § 87(2)(b) then became very loud and agitated. Someone yelled out, "You cannot touch her!" The individuals kept asking PO Morris for his name and shield number. PO Morris then provided his name and shield number to those individuals verbally (Board Review 5).

§ 87(2)(g)

§ 87(2)(g)

Allegation B—Abuse of Authority: PO William Morris threatened to arrest § 87(2)(b)

§ 87(2)(b) alleged that while talking on the phone with a 911 operator in order to file a complaint against PO Morris, PO Morris approached her and told her that she was going to be arrested. PO Morris then asked § 87(2)(b) for her identification. § 87(2)(b) checked her pockets and realized that her identification was inside of her car that was parked by the train station. § 87(2)(b) told PO Morris that her identification was inside her car. PO Morris then asked § 87(2)(b) to provide him with any documentation that had her name on it. § 87(2)(b) provided PO Morris with her credit card (Board Review 1).

PO Morris testified that when he approached § 87(2)(b) she was talking on her cell phone, physically describing PO Morris, providing his name, shield number and her location. PO Morris then asked § 87(2)(b) for her identification. § 87(2)(b) stated that she did not have her identification with her, and that it was in her car. PO Morris asked § 87(2)(b) where the car was parked. § 87(2)(b) stated that the car was parked somewhere in Brooklyn. PO Morris testified that he then explained to § 87(2)(b) that he needed her identification in order to write her the summons for disorderly conduct, and since she did not have the identification with her, she could have been arrested and taken to the Precinct for identification purposes. PO Morris denied threatening to arrest § 87(2)(b). Besides § 87(2)(b) not having her identification, she did not do anything else for which she could have been arrested. PO Morris asked § 87(2)(b) to provide him with any documentation that had her name on it. § 87(2)(b) gave PO Morris her credit card (Board Review 5).

§ 87(2)(g)

Allegation C—Abuse of Authority: PO William Morris issued a summons to § 87(2)(b)

Allegation D—Abuse of Authority: Lt. Robert Gibson issued a summons to § 87(2)(b)

It is undisputed that PO Morris issued § 87(2)(b) a summons for disorderly conduct. After § 87(2)(b) received the summons, she and her family members left the incident location (Board Review 1 and Board Review 9).

PO Morris testified that after § 87(2)(b) provided him with her credit card, he then went to speak to Lt. Robert Gibson of the 6th Precinct. PO Morris informed Lt. Gibson that § 87(2)(b) refused to leave the scene when he asked her to do so; therefore, PO Morris made physical contact with § 87(2)(b) and escorted her away. PO Morris suspected that § 87(2)(b) was going to file a complaint with the CCRB against him because § 87(2)(b) and her group asked for his name and shield number; therefore, to justify the physical contact he made with § 87(2)(b) PO Morris issued her the summons for disorderly conduct. PO Morris intended to present the summons to the CCRB as evidence at a later date. Lt. Gibson asked PO Morris if he really wanted to issue § 87(2)(b) the summons for disorderly conduct, to which

PO Morris replied, “Yes” for the above discussed reasons. (PO Morris repeated his explanation during his CCRB interview that the summons for disorderly conduct, “would justify why [he] made contact with § 87(2)(b) [redacted]”). No one told PO Morris on scene that § 87(2)(b) [redacted] was going to file a complaint with the CCRB, however PO Morris assumed she would due to the fact that he was asked for his name and shield number. PO Morris again said during his CCRB interview that he issued § 87(2)(b) [redacted] the summons because, “[He] had touched § 87(2)(b) [redacted] and that would be a procedure in [his] professional opinion to issue her a summons based on her conduct.”) PO Morris then returned to § 87(2)(b) [redacted] and provided her with the summons for disorderly conduct. When § 87(2)(b) [redacted] received the summons, she and the rest of the individuals walked away (Board Review 5).

Lt. Robert Gibson testified that on October 31, 2015, he was called by his supervisor, Inspector Peter Simonetti of the Patrol Borough Brooklyn North, who requested Lt. Gibson to respond to West 3rd Street and Macdougall Avenue in Manhattan to assist in managing a large crowd that had gathered. When Lt. Gibson came to the location, he saw a large crowd of people walking on the street obstructing vehicular traffic. Lt. Gibson was trying to disburse the crowd, when he heard some commotion come from behind him. Lt. Gibson turned around, and saw PO Morris engaged in a conversation with a black female, identified as § 87(2)(b) [redacted] who was standing against the wall. Lt. Gibson saw that a small crowd of people gathered around PO Morris and § 87(2)(b) [redacted]. § 87(2)(b) [redacted] was yelling and screaming something at PO Morris. Lt. Gibson did not remember what § 87(2)(b) [redacted] was saying. Lt. Gibson did not make any prior observation of § 87(2)(b) [redacted] before he heard the commotion come from behind him. Lt. Gibson did not know what caused § 87(2)(b) [redacted] to yell and to scream at PO Morris. Lt. Gibson decided to approach PO Morris in order to assist in deescalating the situation with § 87(2)(b) [redacted] and the group. It appeared to Lt. Gibson that the people who were standing around PO Morris and § 87(2)(b) [redacted] were somehow related to her. Lt. Gibson did not remember what the individuals from the crowd were saying. Lt. Gibson explained to the crowd of individuals that PO Morris was going to issue the summons to § 87(2)(b) [redacted] and asked them to calm down and not to escalate the situation. Lt. Gibson was standing approximately one arm length away from PO Morris and § 87(2)(b) [redacted]. Lt. Gibson did not hear what PO Morris and § 87(2)(b) [redacted] talked about, because he was concentrated on the crowd. After Lt. Gibson separated the crowd from PO Morris, PO Morris then approached him and informed Lt. Gibson that he was going to issue § 87(2)(b) [redacted] a summons for disorderly conduct. Lt. Gibson and PO Morris briefly discussed the situation; however, Lt. Gibson did not obtain many details of the incident, and it was “obvious” to him that § 87(2)(b) [redacted] acted disorderly because she was yelling and screaming when he first observed her. Lt. Gibson determined that the issuance of the summons for disorderly conduct by PO Morris to § 87(2)(b) [redacted] was justifiable based on the fact that Lt. Gibson observed her yelling and screaming. It was PO Morris’ idea however to issue the summons to § 87(2)(b) [redacted]. Lt. Gibson did not recall if PO Morris ever told him that PO Morris physically touched § 87(2)(b) [redacted] on the day of the incident. Lt. Gibson did not recall if he spoke to § 87(2)(b) [redacted] or if PO Morris ever told him that § 87(2)(b) [redacted] was filing a complaint against him. Lt. Gibson remembered that someone was talking on the phone during the incident, possibly with the CCRB or IAB; however, Lt. Gibson did not remember who that individual was. Lt. Gibson did not remember if PO Morris told him that he was going to issue the summons to § 87(2)(b) [redacted] to document the fact that he made physical contact with her (Board Review 6).

According to New York State Penal Law §240.20, a person is guilty of disorderly conduct when, with intent to cause public inconvenience, annoyance or alarm, or recklessly

creating a risk thereof: 1. He engages in fighting or in violent, tumultuous or threatening behavior; or 2. He makes unreasonable noise; or 3. In a public place, he uses abusive or obscene language, or makes an obscene gesture; or 4. Without lawful authority, he disturbs any lawful assembly or meeting of persons; or 5. He obstructs vehicular or pedestrian traffic; 6. He congregates with other persons in a public place and refuses to comply with a lawful order of the police to disperse; or 7. He creates a hazardous or physically offensive condition by any act which serves no legitimate purpose (Board Review 7).

In People v. Eugene Square, 872 N.Y.S. 2d 693 (2008), “[the] mere expression that one feels aggrieved by the police—even when uttered in a loud voice—cannot constitute an offense. After all, ‘[t]he freedom of individuals verbally to oppose or challenge police action without thereby risking arrest is one of the principal characteristics by which we distinguish a free nation from a police state.’ (*People v. Munafo*, 50 NY2d 326, 331, 406 N.E.2d 780, 428 N.Y.S. 2d 924 (1980)) ... The gravamen of disorderly conduct is conduct that provoking, a ‘breach of the peace’ or a ‘public disturbance’—concepts codified in the Penal Law as ‘public inconvenience, annoyance or alarm’ (*See Munafo*, 50 NY2d at 331). Thus, the disorderly conduct statute applies only to ‘situations that carr[y] beyond the concern of individual disputants to a point where they ha[ve] become a potential or imminent public problem. In deciding whether an act carries public ramifications, courts are constrained to access the nature and number of those attracted, taking into account the surrounding circumstances, including, of course, the time and the place of the episode under scrutiny (*Munafo*, 50 NY2d at 331)’”(Board Review 8).

§ 87(2)(g)

Squad: 9

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Attorney: _____
Title/Signature Print Date